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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 453

JOSEPH P. RUTH, an individual,
Petitioner,

vs.

BLUE RIVER CONSTRUCTORS, an unincorporated association, and MID-VALLEY, INC., S. A. HEALY CO., J. A. JONES CONSTRUCTION COMPANY, A. S. HORNER CONSTRUCTION CO., INC., CHAS. H. TOMPKINS CO., COLORADO CONSTRUCTORS, INC., co-members comprising the unincorporated association BLUE RIVER CONSTRUCTORS, and THE CITY AND COUNTY OF DENVER, acting by and through its BOARD OF WATER COMMISSIONERS,

CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, acting by and through its BOARD OF WATER COMMISSIONERS,
Third Party Plaintiff,

vs.

FIREMAN'S FUND INSURANCE COMPANY and THE AETNA CASUALTY AND SURETY COMPANY, **Third Party Defendants,**
Respondents.

MOTION FOR LEAVE TO FILE A CONSECUTIVE PETITION

JOSEPH P. RUTH, **Respondent, Pro Se**
1325 Glenarm Street
Denver, Colorado

Messrs. Charles R. Ault, John H. Wilharm, Jr.,
1050 Union Commerce Building
Cleveland, Ohio 44115

Counsel of Record for Respondents.

January, 1967

EASTWOOD PRINTING CO. • 2854 LARIMER STREET • DENVER, COLORADO

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CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, acting by and through its BOARD OF WATER COMMISSIONERS,
Third Party Plaintiff,

vs.

FIREMAN'S FUND INSURANCE COMPANY and THE AETNA CASUALTY AND SURETY COMPANY, **Third Party Defendants, Respondents.**

MOTION FOR LEAVE TO FILE A CONSECUTIVE PETITION

I request leave to file a consecutive petition for following reasons:

1. This case covers vital facts in regard to the health and welfare of our nation.

2. The presentation of these facts to this court by a layman is most difficult, particularly in regard to sequence. Which should I have presented first?

There are two basic facts in regard to the application of diesel power in city transit service that are vital to the health and welfare of our nation.

"A"—diesel exhaust contains 0.1% (one-tenth of one percent) of toxic anhydrous nitric acid gas (NO_2) which when inhaled is converted to anhydrous nitric acid on lung tissue, destroying the lung tissue. The public should be informed and protected from this abstruse menace to public health.

"B"—The two-cycle diesel engine used almost universally in inter- and intra-city transit service engenders the SMOG that now besmirches our cities. The *big corporations* (manufacturers and users) because of the high thermal efficiency of this diesel engine are waxing rich by hiding the disease and discomfort caused by diesel exhaust upon the public in general. They use money and their influence over the press to make enigmatic these deadly characteristics of the two-cycle diesel engine and also attribute them to the public's gasoline autos. Demonstrating the utility vital in validating my patent before the court would also have shown that big corporations enamored to the high thermal efficiency of the diesel engine feigned ignorance of the tenth percent of deadly anhydrous nitric acid gas inherent in diesel exhaust and to the crankcase oil smog engendered in our cities by the two-cycle diesel engine which is condensed out of the diesel exhaust by my invention.

By actual test at Horse Creek, Wyoming, 12-12-66 with my water manometer I found the *vacuum sucking* the two cycle diesel engine crankcase oil through the oil seals on the cycloidal blower shafts into scavenging air to be equivalent to 17.5 inches of water.

By actual test in Denver, Colorado, 12-13-66 with the same water manometer I found the vacuum on my Chrysler oil filler spout to be less than one inch of water and reversible like a sine wave up and down. This is the spout which must now by law be legally connected to the carburetor intake at a cost of around $65 each to hide the diesel crankcase oil smog which by a 17.5 inches of water vacuum is being sucked into the two-cycle diesel engine's scavenging air, then heated to 800° F. by the diesel exhaust and then discharged into our cities' air where, upon rising and cooling, it condenses to crankcase oil smog, in depth becomes blinding.

Granting my petition will expose the greatest fraud ever foisted upon a supposedly free people.

It has taken lots of money to create this derogatory law. The public has no relief except my knowledge of what is right and the right to demonstrate to the court that what I contend is true. The Supreme Court has the power to expose this fraud on the public.

The difference between the money of the General Motors Corporation, the American railroads and the city diesel bus transit lines, who are wittingly subrosa polluting our city air and laying it onto the public by law, is the Supreme Court of the United States who can give me permission to expose the fraud and thereby abrogate the ill-conceived law.

My request for a consecutive petition for a re-hearing is covered in "B." I feel I was perhaps remiss in not presenting "B" first to this Court. (My lawyers had all of these facts regarding the deadly characteristics of diesel exhaust (smog and toxicity) but refused to

present them to the Court in Civil Action 6679 against Blue River et al.) .

My invention absorbs the anhydrous nitric acid gas (NO_2) inherent in diesel engine exhaust and is by the violent agitation absorbed into the water. The limestone in the water converts the toxic nitric acid (HNO_2) to a non-toxic calcium salt. I can show the District Court if my motion is granted and this Court's decision is favorable that the toxic diesel exhaust gas now in our cities' air is being inhaled 24 hours per day in low concentration by men, women and children and on quiescent atmospheric days in high concentration.

My invention working on mining equipment having the 6-71 two-cycle diesel bus engine which is also used on city buses, drops the diesel exhaust gas temperature from 800° F. to 100° F. This drop in temperature condenses out on the limestone in the conditioner the crankcase oil from the diesel engine's exhaust which untreated now at 800° F. goes into our cities' air and when it condenses out crankcase oil smog is formed in our cities' air.

The only people who can benefit by keeping the deadly characteristics of the two-cycle diesel engine's exhaust secret which now permeates our cities' air are the diesel engine manufacturers, the railroad users and the companies having diesel buses in city transit service.

The public can be benefitted in two ways by the exposure of the deadly inherent characteristics of diesel exhaust.

First they will know the deadly nitric acid gas air pollution *is not coming from their gasoline cars but comes*

from the diesel engine. They will know the crankcase oil smog comes from the two-cycle diesel engine and not from their cars. Then why the $65.00 anti-smog gadget on their cars?

Second, knowing the toxic anhydrous nitric acid gas and crankcase oil smog comes from the diesel engines in city transit service and not from their cars, they need not hesitate in forcing the big corporations to desmog and detoxify their diesel engine's exhaust used in city service, reversing the onus for the cause of smog in our cities.

The demonstration I request can expose this perfidy on the public if given the opportunity by this honorable Supreme Court of the United States to demonstrate to a judge in the 10th Circuit the same demonstration I made to Judge Druffel in the 6th Circuit.

This case puts the United States Supreme Court, as it did my lawyers, in either the status of the Rabbi and the Levite, or the Good Samaritan; Luke 10:30-37. The public is being clobbered.

I consider this case most exceptional and humbly ask this Court to give profound consideration to my physical and chemical exhibitions demonstrating the perfidy the public is being subjected to.

Your Suppliant,

JOSEPH P. RUTH
1325 Glenarm Street
Denver, Colorado 80201